IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.455 OF 2005
IN
SUMMARY SUIT NO.1804 OF 2000

Sanman Industries ..Plaintiffs

Vs.

Kanugo Tubes (India) Ltd. ..Defendants

Ms.Neeta Solanki i/b Kiran Jain and Co. for the plaintiffs

Mr.Tushar Joshi for the defendants

CORAM : S.U.KAMDAR, J
DATED : 16TH JANUARY, 2006

P.C.:

1. The present suit is filed for recovery of sum of Rs. 5 lacs paid towards advance under Purchase Order dt.17.3.99. The said purchase order is for supply of goods. It is the case of the plaintiffs that the goods are not supplied and therefore amount is refundable.

2. It is the case of the defendants that the goods had arrived but the defendants have not taken delivery of the goods. There is no written contract for amount of Rs.5 lacs which has become due and payable. In that view of the matter,

triable issue arises. Unconditional leave to defend is granted. Summons for Judgment is dismissed accordingly.

3. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.